

DELEGATE HENDERSON: I will.

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Is it a reasonable construction or reasonable to assume that a proper construction of this could be that the separation of powers doctrine is a general concept and applies to all areas where the constitution does not specifically provide for crossing over? For example, in the judiciary branch the constitution provides some areas of cross-over. The executive branch and the legislative branch provide for cross-over powers, but where they are not specifically provided for in the constitution, the separation of powers would prohibit the encroachment of one major department on the other.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Well, even if I accept your interpretation on constitutional powers, if this were literally interpreted, it would invalidate hundreds of laws in which the legislature has delegated to one agency or another powers that are both legislative and judicial. In other words, complete separation of powers is simply not true. It is not followed. It is not done.

One example was for years the Tax Commission, which heard appeals and also was an administrative agency in the executive branch. It is true that the Tax Court has separated that out, but that existed for years by act of the legislature.

THE CHAIRMAN: The discussion during the last twenty-eight minutes indicates the absolute impossibility of estimating how long it will take to dispose of any particular question. There are three people seeking the floor. I think we should postpone further discussion until after dinner hour.

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. Chairman, I move the Committee of the Whole rise and report the approval of Committee Recommendation R&P-1, with amendments, and further report that it has not completed its consideration of Committee Recommendation R&P-2.

THE CHAIRMAN: All those in favor signify by saying Aye; contrary No. The Ayes have it. It is so ordered.

(Whereupon, at 6:30 P.M., the Committee of the Whole rose, and the Convention reconvened.)

(The mace was replaced by the Sergeant-at-Arms.)

PLENARY SESSION

DECEMBER 13, 1967—6:30 P.M.

PRESIDENT H. VERNON ENEY,
PRESIDING

THE PRESIDENT: The Convention will please come to order.

On behalf of the Committee of the Whole, the Chair reports that the Committee has concluded its consideration of Committee Recommendation R&P-1, that it has approved Committee Recommendation R&P-1, with amendments. Committee Recommendation R&P-1 and the report of the Committee of the Whole is referred to the Committee on Style, Drafting and Arrangement. On behalf of the Committee of the Whole, the Chair further reports that it has under consideration Committee Recommendation R&P-2, that it still has it under consideration and desires leave to sit again.

The Chair thinks it is necessary to make another brief announcement.

The officers of the Convention are very much concerned and troubled by the fact that in the past few days we have fallen far behind our schedule, and progress has been slower than perhaps on any other article. It seems at the moment that it would be impossible to conclude consideration of all matters on the agenda by the close of the session tomorrow.

In view of the fact that the Convention has a deadline beyond which it cannot go, and in further view of the fact that in a little more than a week Christmas is upon us, it is the intention of the officers to continue the sessions of the Convention without recess of any kind until we conclude consideration of every matter presently on the agenda. This means complete consideration of all matters that must be completed by the Committee of the Whole. At the same time, we are most anxious to be able to recess the Convention at least a few days or more and few days before Christmas because it is absolutely imperative that the members of the Convention who serve on the Committee on Style, Drafting and Arrangement, and the Members of the Convention who are trying to draft the transitional provisions in the schedule of legislation must have at least two or three days of uninterrupted time to work on those particular tasks.

In order to accomplish all of these objectives, therefore, the Chair urges all delegates to remain in the room at all times